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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/284,699	04/19/1999	YASUSHI TANAKA	450108-4542	2687
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EXAMINER				
SALCE, JASON P				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/284,699

**Applicant(s)**

TANAKA, YASUSHI

**Examiner**

Jason P. Salce

**Art Unit**

2421

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11, 14-35 and 37 is/are pending in the application.
- 4a) Of the above claim(s) 35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 14-35 and 37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/21/2009 has been entered.

### ***Response to Arguments***

Applicant's arguments filed 5/21/2009 have been fully considered but they are not persuasive.

Applicant has amended the independent claims to recite, "***each of said commercial information provided by a commercial information sponsor of the program displayed at each program column is display successively in a single area of the display, shifted temporally from one another***". The Examiner notes that the amended claims still read on the Schein reference of record. As stated in the Advisory Action dated 4/11/2009, Figures 21D-21F discloses displaying commercial information successively and shifted temporally from one another by Figure 21D displaying an area of the screen that allows a viewer respond to commercial information by entering a password. Further Figure 21E shows that once a viewer enters his/her

password, a further overlay window is displayed successively and temporally from the window displayed in Figure 21D asking to confirm a viewer's password to finalize the order (**which still represents commercial information**). The final piece of commercial information, displayed in the same area of the display, is further displayed successively and temporally on top of the windows displayed in Figures 21D-21E (**see Figure 21F**), which indicates to the viewer that the purchase of the NFL cap has been completed.

### ***Election/Restrictions***

This application contains claim 36 drawn to an invention nonelected with traverse in the reply filed on 10/30/2007. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11, 14-35 and 37 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Schein et al. (U.S. Patent No. 6,002,394).

Referring to claim 1, Schein discloses an information transmitting method for transmitting program guide information (**see Column 7, Lines 36-45**) and processing commercial information which corresponds to said program guide information and which is automatically displayed for a single program column and is transmitted together with said program guide information (**see Column 7, Lines 35-45 for transmitting commands in the VBI, which are used to create an EPG, and also note Column 8, Lines 3-7 for also transmitting commands which contain URL information which allows a user to access a linked internet site from the EPG**).

Schein also discloses that when a cursor is moved onto a program of a program column of the program guide screen (**see Column 21, Lines 38-41 for navigating through a program guide screen and note Figure 20A for selecting the WORLD OF SERVICES menu or Figure 20B for selecting a program column that contains further commercial information, such as commercial information in window 528, ticker 524**), each of said commercial information provided by a commercial sponsor (**see Figures 21C-21F and Column 23, Line 66 through Column 24, Line 24 for the commercial information, such as NFL cap and transcript offers being provided by commercial sponsors, such as the NFL sports pro shop or the company providing the official transcript**) of the program displayed at each program column (**see again Figures 21A-21C for the commercial information being displayed based on the selection of ABC Monday Night Football, wherein a program is**

**displayed at each program column, for example the programs displayed on the Disney channel, HBO or ABC) is displayed successively in a single area of a display (see Figures 21D-21F for displaying the commercial information one after another in successive windows in the program guide display), shifted temporally from one another (see Figures 21D-21F for each window being displayed one after another).**

Schein also discloses selectively picking program content data from a plurality of program content regions to create said program guide screen (**see Column 10, Lines 40-59 for the user keeping a favorite channel list, selectable by the user and Figure 20A for the user being able to select his/her favorite channels from a program guide screen and Figure 21B for adding channel to the favorite list).**

Schein also discloses combining the selectively picked program content data from said plurality of program content regions with transmitted screen layout data and previously stored standard screen layout data to create said program guide screen (**see Column 7, Lines 16-38 and Column 9, Lines 1-5 and 56-61 and Column 12, Lines 5-10 and 47-60 for viewing a program guide for a certain number of hours, where the program guide data has already been stored, for example a 24 hour period and further note that when the viewer is viewing a program guide and exceeds the stored program guide data, further program guide is transmitted to the user when accessing program guide data past the previously stored 24 hour block).**

Schein also discloses that the program content data includes three types of data, modifiable broadcast data (**see modifiable favorite channel database at Column 10,**

**Lines 40-59**), fixed broadcast data (**see Figure 7B**) and comparatively large-sized broadcast data (**see Figure 5**).

Schein also discloses that the selectively picked program content data are categorized in at least two types of data with different structures and formats (**see Column 10, Lines 40-67, where programs can be selected not only by favorite channel listings (see Figure 19A) but also setting reminders for the programs or restricting access to programs, therefore categorizing the content data in at least two types of data with different structures and formats**).

Schein also discloses that the commercial information includes a remote network server address information (**see Column 18, Lines 20-67 and Column 20, Lines 1-17 and Column 23, Line 37 through Column 24, Line 60**).

Referring to claim 2, Schein discloses that the commercial information contains image data (**see Column 11, Lines 56-57**).

Referring to claim 3, Schein discloses that a digital signal can have separate bitstreams that contain video, audio, and program guide information (**see Column 6, Lines 51-60**), and that data related to a television program guide title is related to an advertisement (**see the rejection of claim 1 and note that the advertisement shown in window 528 is related to the television program selected in the program matrix 506**).

Referring to claim 4, Schein discloses that commercial information can be accessed on a remote computer via the Internet (**see Column 20, Lines 4-9**), and that a computer on a computer network (**Internet**) can be given an IP address (**see Column 18, Lines 20-43**).

Referring to claim 5, Schein discloses hierarchical levels for program schedule data (**see Column 9, Lines 20-67 and Column 10, Lines 1-28**) for a program guide, which contains advertisements (**see Column 22, 10-18**). Schein shows that a first hierarchical level (**Channel Data Table**) is smaller by holding only the channel required for viewing at a specific subscriber's receiver, while the second hierarchical level (**show list**) contains start times and additional scheduling data for 24 hours worth of program for every channel listed in the Channel Data Table (**see Column 9, Lines 20-62 and Figures 5 and 6**).

Referring to claim 6, see the rejection of claim 1 and note that Schein further discloses a receiver for separating program guide information from a received broadcasting signal (**see Column 12, Lines 41-44**).

Schein also further discloses a processor (**see Figure 3**) for displaying commercial information in a part of a display area (**see Figure 21A and Column 24, Lines 1-20**), and an electronic program guide screen including program columns corresponding to a plurality of programs based on the separated program guide information (**see Figure 21A**).



Schein also further discloses that the processor (**see Figure 3**) processes commercial information which corresponds to said program guide information and which is automatically displayed for a single program column and is transmitted together with said program guide information (**see Column 7, Lines 35-45 for transmitting commands in the VBI, which are used to create an EPG, and also note Column 8, Lines 3-7 for also transmitting commands which contain URL information which allows a user to access a linked internet site from the EPG**).

Schein also discloses that the processors displays a remote network server address of the commercial information sponsor and enables a user to select the remote network server address and, in response to said selection, display detailed information of the commercial information (**see Figure 15 and Column 20, Lines 14-56**).

Referring to claim 7, Schein discloses specifying commercial information displayed on part of said program guide screen (**see Figure 21A**).

Schein also discloses communicating with an external computer through a computer network (**see Column 20, Lines 4-9**).

Schein also discloses displaying further detailed information from an external computer based on address information to display the information when a cursor is moved onto one of the program columns (**see Figures 21B and 21C and Column 18, Lines 20-43 and Column 19, Lines 51-63**).

Referring to claim 8, Schein discloses selecting a program column on a program guide, and displaying program details corresponding to the program column selected and to sequentially display plural items of commercial information included in the program in a part of the display area (**see Figures 21A, 21B, and 21C and Column 24, Lines 1-19**).

Referring to claim 9, Schein discloses displaying a commercial details screen (**see top left window explaining NFL cap in Figure 21C**).

Referring to claim 10, see rejection of claim 9.

Referring to claim 11, Schein discloses sponsors for presenting commercial information (**see Column 20, Lines 14-56 and Column 22, Lines 10-18**).

Referring to claim 14, see rejection of claim 2.

Referring to claim 15, see rejection of claim 3.

Referring to claim 16, see rejection of claim 6.

Referring to claims 17-21, see rejections of claims 8-12, respectively.

Referring to claim 22, see rejection of claims 1, 6 and 16. Also note Figure 1 for a transmitting apparatus.

Referring to claims 23-24, see rejection of claims 20-21, respectively.

Referring to claims 25-26, see rejection of claims 25-26, respectively.

Referring to claim 27, see rejection of claims 1 and 6.

Referring to claims 28-30, see rejection of claim 27.

Referring to claims 31-34, see the rejection of claims 1, 6, 16 and 22.

Referring to claim 35, see the rejection of claims 1 and 6.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schein et al. (U.S. Patent No. 6,002,394) in view of Hendricks et al. (U.S. Patent No. 6,052,554).

Referring to claim 37, Schein discloses all of the limitations of claim 34, but fails to teach the limitations of claim 37.

Hendricks discloses an output management data producer to provide management information for a plurality of programs in the EPG including program broadcast time (**see Column 6, Line 66 through Column 7, Lines 24**).

Hendricks also discloses an EPG editor to receive the management information and commercial information and to provide EPG data (**see Column 7, Lines 25-46**).

Hendricks also discloses a multiplexer to combine encoded audio/visual program data synchronized with the EPG data and produce an EPG transmission signal for transmission (**see Column 8, Lines 23-35**).

Hendricks also discloses that the EPG data has program content data on the programs of each broadcasting channel during a predetermined time interval () that hierarchically includes broadcasting form data for regular program, group data that is common in a plurality of programs of the broadcasting form data arranged as a single program, and detailed contents data including respective programs of the broadcast form data and the particular information group data (**see Column 21, Line 1 through Column 23, Line 25**).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the television program transmission system, as taught by, Schein, using the program packaging and delivery system, as taught by Hendricks, for the purpose of a system capable of packaging hundreds of television programs for delivery to subscribers (**see Column 4, Lines 35-37 of Hendricks**).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason P Salce/  
Primary Examiner, Art Unit 2421

Jason P Salce  
Primary Examiner  
Art Unit 2421

July 21, 2009